



Entered on Docket
October 05, 2010

A handwritten signature in black ink, appearing to read "Linda B. Riegle", is written over a horizontal line.

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,¹

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

USA SECURITIES, LLC,³
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Order Sustaining Fourth Omnibus
Objection Of USACM Trust To Proofs Of
Claim Based In Whole Or In Part Upon
Investment In The Huntsville Loan aka the
West Hills Park Loan Loan**

Date of Hearing: September 23, 2010
Time of Hearing: 10:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the “Fourth Omnibus Objection of USACM Trust to
2 Proofs of Claim Based In Whole Or In Part Upon Investment In the Huntsville Loan aka
3 the West Hills Park Loan Loan” [DE 8143] (the “Objection”); the Court having heard the
4 Objection on September 23, 2010; appropriate notice of the Objection having been given;
5 no response to the Objection having been filed; and good cause appearing:

6 **IT IS ORDERED** that:

7 1. The Objection [DE 8143] is sustained;

8 2. The claims listed on **Exhibit A** attached are disallowed to the extent those
9 claims are based upon an investment in the Huntsville Loan aka the West Hills Park Loan
10 Loan for the reasons set forth in the objection.

11 3. The claims listed on **Exhibit A** are not affected by this order to the extent
12 they are based upon an investment in another loan.

13 PREPARED AND RESPECTFULLY SUBMITTED BY:

14 **LEWIS AND ROCA LLP**

15
16 By/s/ John Hinderaker (AZ 18024)

17 Robert M. Charles, Jr.

18 John Hinderaker (*pro hac vice*)

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24 *Attorneys for USACM Liquidating Trust*
25
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CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of approval under LR 9021.
- ☐ This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document.]
- ☒ This is a chapter 11 case, and I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below.
- ☐ I certify that I have served a copy of this order with the motion, and no parties appeared or filed written objections.

| | |
|---|---|
| U.S. Trustee: | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input checked="" type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |
| Other Party: | |
| <input type="checkbox"/> approved the form of this order | <input type="checkbox"/> disapproved the form of this order |
| <input type="checkbox"/> waived the right to review the order and/or | <input type="checkbox"/> failed to respond to the document |

Submitted by:
LEWIS AND ROCA LLP

By: /s/ John Hinderaker
Attorneys for USACM Liquidating Trust

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EXHIBIT A

| Claim | Name | Address | Total Claim Amount | Approximate Amount Subject to Objection Because it Relates to an Investment In the Huntsville Loan |
|--------------|-------------------------------------|--|---------------------------|---|
| 10725-02482 | Don P. Marshall Trust Dated 7/18/95 | c/o Don P Marshall Trustee 221 Chiquita Road Healdsburg, CA 95448-9055 | \$145,788.99 | \$50,000.00 |
| 10725-02433 | Michaelian Holdings LLC | 413 Canyon Greens Drive Las Vegas, NV 89144-0829 | \$1,267,075.50 | \$50,000.00 |
| 10725-02353 | Musso Living Trust Dtd 11/30/92 | Walter and Barbara Musso Ttees P.O. Box 2566 Avila Beach, CA 93424 | \$623,004.79 | \$50,000.00 |
| 10725-02031 | Freda Newman Trust Dtd 7/26/84 | Freda Newman Trustee c/o Daniel Newman 125 Elysian Drive Sedona, AZ 86336 | \$467,009.44 | \$100,000.00 |
| 10725-02097 | RGF Revocable Trust | Robert G. Fuller Ttee 5172 English Daisy Way Las Vegas, NV 89142 | \$487,047.24 | \$50,000.00 |
| 10725-02328 | Marion C. Sharp IRA | 20 Leroy Terrace New Haven, CT 06512-3114 | \$450,000.00 | \$100,000.00 |
| 10725-02279 | Winkler Family Trust Dtd 3/13/86 | Carmel and Rudolf Winkler Trustee 10000 Rossbury Place Los Angeles, CA 90064 | \$1,210,635.98 | \$50,000.00 |
| 10725-02278 | Rudolf Winkler IRA | 10000 Rossbury Place Los Angeles, CA 90064-4826 | \$651,800.22 | \$50,000.00 |
| 10725-01952 | Anthony J. Zerbo | 780 Saratoga Ave., Apartment S-107 San Jose, CA 95129 | \$1,757,710.50 | \$50,000.00 |